

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
BEAUMONT DIVISION**

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FELIX L. SORKIN,

Plaintiff,

Civil Action No. 08-CV-133

vs.

UNIVERSAL BUILDING PRODUCTS INC.,

Defendant.

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**ANSWER AND AFFIRMATIVE DEFENSES**

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Defendant, Universal Building Products, Inc. (“Universal Building Products”), for its answer to the complaint of plaintiff, Felix L. Sorkin (“plaintiff”), alleges as follows, upon information and belief:

1. Admitted that the complaint seeks a declaratory judgment of patent infringement and that the complaint seeks damages and injunctive relief. Denied that Universal Building Products committed patent infringement or that Universal Building Products caused damage to plaintiff. The remaining allegations contained in paragraph 1 are denied.

2. Admitted that the complaint alleges patent infringement under the patent laws of the United States and that this Court has jurisdiction over the subject matter of this claim under 28 U.S.C. §§ 1331, 1332, and 1338(a).

3. Denied.

4. Denied.

5. Admitted upon information and belief.

6. Stated that Universal Building Products is a Delaware corporation with its principal place of business at 825 South 25th Avenue in Bellwood, Illinois, 60104, and that its

registered agent is The Corporation Service Company at the address indicated in paragraph 6 of the complaint. Except as so stated, the allegations of paragraph 6 are denied.

7. Stated that Universal Building Products is without information or belief as to the truth of the allegation that plaintiff Sorkin is the current owner of the '367 patent, and therefore that allegation is denied. The remaining allegations of paragraph 7 are admitted.

8. Denied.

9. The '367 patent speaks for itself and therefore the allegations contained in paragraph 9 are denied.

10. Denied.

11. Denied.

12. Denied.

13. Denied.

14. Denied.

15. Universal Building Products incorporates and realleges as though fully set forth herein its responses to paragraphs 1-14 of the complaint.

16. Denied.

17. Denied.

18. Denied.

19. Denied.

20. Universal Building Products incorporates and realleges as though fully set forth herein its responses to paragraphs 1-19 of the complaint.

21. Denied.

22. Universal Building Products incorporates and realleges as though fully set forth herein its responses to paragraphs 1-21 of the complaint.

23. Denied.

24. Any allegations of the complaint that are not specifically admitted herein are hereby denied.

### **AFFIRMATIVE DEFENSES**

#### **First Affirmative Defense**

The complaint fails to state a claim upon which relief can be granted, including, but not limited to, because the complaint fails to allege any specific products manufactured, sold, or offered for sale by Universal Building Products that are alleged to infringe the '367 patent.

#### **Second Affirmative Defense**

Defendant Universal Building Products asserts that plaintiff's Original Complaint should be dismissed for lack of personal jurisdiction over Defendant Universal Building Products in the Eastern District of Texas.

#### **Third Affirmative Defense**

This action should be dismissed on the ground of improper venue, as venue is not proper in the U.S. District Court for the Eastern District of Texas or in the Beaumont Division of the Eastern District of Texas.

#### **Fourth Affirmative Defense**

Universal Building Products has not infringed, contributorily infringed, induced infringement, nor does it infringe, contributorily infringe, or induce infringement of any valid claim of the '367 patent.

#### **Fifth Affirmative Defense**

Each claim of the '367 patent is invalid and void on the ground that the purported inventions attempted to be patented therein fail to meet the conditions of patentability specified in Title 35, U.S.C., including, but not limited to, 35 U.S.C. §§ 102, 103, and/or 112.

**Sixth Affirmative Defense**

Universal Building Products reserves the right to assert the affirmative defense of waiver, laches, and/or equitable estoppel, if appropriate after investigation and discovery in this matter.

**Seventh Affirmative Defense**

Universal Building Products reserves the right to assert additional affirmative defenses as may be established by discovery in this action.

**Eighth Affirmative Defense**

The complaint fails to state a claim for the recovery of attorneys' fees.

**RELIEF REQUESTED**

WHEREFORE, defendant Universal Building Products demands judgment as follows:

1. That the complaint be dismissed, with prejudice, and that plaintiff take nothing thereby;
2. That the Court declare that Universal Building Products does not infringe any valid claim of the '367 patent;
3. That the Court declare that each claim of the '367 patent is invalid;
4. That this case be declared exceptional and that defendant be ordered to pay to Universal Building Products its reasonable attorneys' fees pursuant to 35 U.S.C. § 285;
5. That the Court award Universal Building Products all of its other costs and disbursements incurred in defense of the patent infringement claims of plaintiff; and
6. That the Court award Universal Building Products such other and further relief as the Court may deem just and proper.

DATED: April 21, 2008.

s/ Kevin P. Walters

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**CERTIFICATE OF SERVICE**

This will certify that a true and correct copy of the foregoing Answer was served via regular U.S. Mail, facsimile transmission and/or by electronic means on the 21st day of April, 2008, upon the following parties:

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/s/ Kevin P. Walters  
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KEVIN P. WALTERS